PHILIP MORRIS U. S. A.

INTER-OFFICE CORRESPONDENCE

Richmond, Virginia

PERSONAL & CONFIDENTIAL

To: .Strategic Planning Committee Date: May 27, 1987

From: .R. N. Ferguson and M. Waugh

Subject: .Social-Political Context of Cigarette Sales and Use in the U.S.-1987

The major resource for our input to you on the challenges facing our industry was Mr. Jack Nelson, New York Office of P.M., who provided us with much of the information on which the following sections are based.

.At this point in time there appear to be five major issue areas facing the cigarette industry. These areas, listed below, will each be discussed in following sections.

1. Social acceptability and the increased restrictions which are accompanying decreased acceptability
2. Product liability
3. Cigarette taxation
4. Advertising and promotion issues
5. Self-extinguishing cigarette

1. Social Acceptability

Almost all cigarette useage occurs in a social context, so that the degree of acceptability of smoking to others becomes the major issue from which pressures on the individual smoker ultimately originate. A product used in a social context can become unacceptable if it violates social mores or if it entails a level of risk untolerable to others.

There is convincing evidence that the public perception of risk in general has heightened, due perhaps to major changes in the structure of society - weakened religion, health crazes, ageing population, etc. Whatever the root causes, smoking is now perceived as a health risk to non smokers. The following Roper data undoubtedly underestimates the state of affairs in 1987, but shows the trend.

	1978	1982	1984
Segregate Smokers/Non-Smokers in Eating Places	73%	84%	90%
Segregate Smokers/Non-Smokers in Work Places	61%	65%	68%
Ambient Smoke Probably Hazardous to Non-Smokers	58%	65%	68%
Smokers frequently uncomfortable smoking around others	13%	14%	18%

2021554395

Source: https://www.industrydocuments.ucsf.edu/docs/qnhm0000

When this is coupled with the fact that smokers are a non militant, shrinking minority, it is easy to discern why zealots and politicians can use them for "target practice" with little concern.

From the social acceptability issue, which is founded largely on the purported harm of ETS to the non-smoker, have proceeded the restriction measures. The following summary table indicates that these legislative measures are meeting with increasing success.

Smoking Restriction Bills	1980	1981	1982	1983	1984	1985	1986
Debated	158	155	165	207	228	374	387
Enacted	32	45	44	67	66	80	149

These laws are focused on the state and local level - workplace or restaurants in general. The full page TI table attached at the end of this memo shows the diverse effects of such laws on a state by state basis. In addition to this, ~50% of employers surveyed had or were considering workplace smoking restrictions. It is of concern that large numerical advances in workplace/restaurant bans are being made in nationwide "trendsetter" states such as California.

Since the current decrease in social acceptability, and all the negatives it entails, is based on the powerful ETS weapon, we have also enclosed a one page summary on this subject as a second attachment to this memo. It is apparent that the effects of ETS on others is now the most powerful anti-smoking weapon being employed against the industry.

2. Product Liability

Almost half of the 130 pending product liability suits involve PM and thus this issue is of substantial interest to us. Apparently most of the suits fall in one or more of three categories of legal arguments.

A. Product dangers and failure to warn of the dangers.

B. Undermining the required warning - by various forms of promotion and by challenging health data.

C. Causality of illness and addiction to the product such that stopping became impossible.

In the unlikely (but possible) event of plantiffs winning some of these cases, a deluge of suits would be spurred on by "hungry" lawyers. It is possible that at some point in time a significant portion of the retail sales price of cigarettes would be required to fund these suits and related damage awards, i.e., a significant price increase would be necessary.

The only encouraging trend here is the general public revolt against large damage awards and the movement to reform state laws on liability.

2021554396

Source: https://www.industrydocuments.ucsf.edu/docs/qnhm0000

3. Cigarette Taxation

This is a complicated but critical issue. Cigarettes are not only taxed at the federal level but at the state and possibly local level. To the extent that governmental bodies tend to regard this tax as a "cash flow", there is a degree of reluctance to destroy the industry. Also, many realize this is a very regressve tax, which tends to restrain some legislators (except the zealots). The problem with tax increases is that it does decrease consumption, just as desired by the social engineers posing these increases want to see.

It is a fact of life that the State and Federal Excise taxes move in only one direction - up. The average state tax rate table below suggests that a large federal increase is more of a problem than the generally smaller increases enacted at the state and local level in the last few years. The federal budget deficit, and the lack of vigorous opposition from the White House, makes a federal excise tax increase a real possibility in the near future.

State
Average Tax Rate

Current	18.25
June 30, 1986	17.32
June 30, 1985	15.77
June 30, 1984	15.44
June 30, 1983	14.54

A separate but related issue is the pressure from some quarters to replace the current excise tax with an Ad Valorem tax - an incremental percentage of the sale price. This is a serious issue for one competitive reason - it would tend to increase the price advantage of the generic versus full margin markets. Hawaii is the only state at present with such a tax.

4. Advertising and Promotion

The cigarette industry accepted a total ban on television and radio advertising in 1972. Opponents of cigarette use have convinced themselves (and some others) that a total ban on advertising would undermine the industry. It is by no means certain that the Supreme Court would not uphold such a law, desspite the commercial speech interpretation of the First Amendment.

The anti-smoking effort rests on a number of assertions, such as:

a) Cigarettes are more heavily advertised than any other product.

b) This heavy advertising induces non-smokers, especially young people, to smoke.

c) Taxpayers subsidize tobacco ads.

d) Ads are deceptive since they lower awareness of health risks.

2021554397

Source: https://www.industrydocuments.ucsf.edu/docs/qnhm0000

Each of these arguments can be rebutted by facts, but it is of some concern that there is a moderate level of support for such bans. A total ban would be particularly damaging since it would channel competitive forces into areas such as low price and could possibly destabilize current market shares. Such proposals at the state and local level are making very little progress.

Another aspect of cigarette promotion is state and local sampling laws. Since 1966, 14 states have considered sampling ban bills, but none has banned sampling to adults. There have been some local level actions to ban sampling even to consenting adults. The number of these restrictions at present, in comparison to other industry challenges, does not present a major issue.

5. "Self-Extinguishing" Cigarette Legislation

Cigarettes continue to be associated with a large number of fires, many of which cause loss of life and property. It is not known if the technology exists to make cigarettes self extinguish, but this does not prevent a number of states from at least considering legislating such a product into existence. The federal feasibility study, mandated by Congress in 1984, has slowed down activity at the state level in the last three years.

On October 30, 1987, the study groups final report is due. Depending on this report there could be actions at either the federal level or worse, numerous differing state level regulations.

If legislation is passed it would probably be necessary to modify several aspects of current cigarette construction. This could have a negative impact on per unit costs. Of more concern, it would be hard to maintain the subjective acceptability of our major brands if design changes were legislated into these products. This is particularly unfortunate since there is really little reason to expect any increase in fire safety without some nationwide effort to treat fabrics with fire retardant chemicals.

Summary

The increased success of anti-smoking forces at undermining the social acceptability of smoking is a real and present challenge for our industry. Rebuttal is crucial but reversal of the flow of events depicted here is unlikely. This gloomy picture of 1987 and beyond must be interpreted in terms of opportunity as well as challenge. The very importance of the above issues suggest that products which can successfully address some or all of these needs can still be very successful. A threat to the industry can be an opportunity for the company which can find consumer acceptable answers to the types of challenges discussed in this memo.

/ds

Enclosures

2021554398

Source: https://www.industrydocuments.ucsf.edu/docs/qnhm0000

Environmental Tobacco Smoke (1/23/87)

Status

Environmental Tobacco Smoke (ETS) (aka passive smoking, ambient smoke, sidestream smoke, and involuntary smoking) has been a legal issue since 1975 when eight states enacted restrictions on smoking in public places other than elevators. These early smoking restrictions were motivated primarily by the annoyance rather than any scientific evidence of health effects. However, the anti-smokers and media attention given to the purported effects of ETS on health have persuaded forty states, over 600 localities, and hundreds of businesses to restrict smoking in the workplace and other public places. The federal government is considering banning smoking on commercial flights, among military personnel, and in government buildings. The 1986 Surgeon General's Report asserted that ETS "can cause" lung cancer in non-smokers.

Summary Arguments

The first Surgeon General's Report on Smoking and Health in 1964 addressed (ETS), but admitted that more research was needed. The 1979 Surgeon General Report stated that "healthy nonsmokers exposed to cigarette smoke have little or no physiological response to smoke." This report also called for more research. Between 1983 and 1984, 65 internationally known physicians and scientists met three times to address the health effects of passive smoking and concluded, collectively and independently, that no conclusion can be made about whether (ETS) has any health effect on nonsmokers.

In 1986 reports of the National Research Council and the Surgeon General clearly rejected any significant connection between non-smoker ETS exposure and cardiovascular disease, chronic obstructive lung disease or acute respiratory disease (asthma). The Surgeon General's report did assert that ETS exposure "can cause lung cancer" in non-smokers. However, that conclusion was largely political in character. Of the 13 studies reviewed by the report, only 3 showed any statistically significant relation between ETS exposure and lung cancer in non-smokers. These studies are tainted by misclassification of former smokers as non-smokers which accounts for all the supposed ETS related lung cancer. Moreover, in a private communication to a public health official in January 1986, the Surgeon General admitted that the "currently available data do not support a conclusion that exposure to environmental tobacco smoke represents a health hazard."

Finally, none of the 3 studies examined ETS exposure effects outside the home. Indeed, if ETS were treated as any other environmental pollutant, the EPA would impose no restriction on exposure because its health effects are negligible.

Impact

The ETS issue has become the principal force behind the anti-smoking movement's effort to proscribe smoking and ostracize smokers. Despite its non-effect on non-smokers, ETS is the most powerful weapon the zealots have in their crusade.

2021554399

Source: https://www.industrydocuments.ucsf.edu/docs/qnhm0000

(Desk)

STATE SMOKING RESTRICTION LAWS
January 1987

The Tobacco Institute
State Activities Division

State	Any Public Bldg. Posted As No Smoking	Elevators	Public Transportation	Educational Facilities	Cultural Facilities	Health Care Facilities	Govt. Owned Bldg./Public Meetings	Food Stores	Retail Stores	Restaurants	Workplace-Government	Workplace-Private Sector
ALABAMA												
ALASKA	•	•	•	•	•	•	•	•		•	•	
ARIZONA		•	•	•	•	•	•				•	
ARKANSAS						•						
CALIFORNIA			•	•	•	•	•	•			•	
COLORADO	•	•	•	•	•	•	•					
CONNECTICUT		•	•	•		•	•	•		•	•	•
DELAWARE			•									
FLORIDA		•	•	•	•	•	•	•	•	•	•	•
GEORGIA	•	•	•									
HAWAII							•					
IDAHO		•	•	•	•	•	•	•	•	•		
ILLINOIS												
INDIANA												
IOWA		•	•		•	•	•					
KANSAS		•	•		•	•	•					
KENTUCKY				•								
LOUISIANA					•							
MAINE	•					•	•		•		•	•
MARYLAND		•	•			•						
MASSACHUSETTS		•	•		•	•		•				
MICHIGAN		•	•	•	•	•	•	•		•	•	
MINNESOTA	•	•	•	•	•	•	•	•	•	•	•	•
MISSISSIPPI			•									
MISSOURI												
MONTANA	•	•	•	•	•	•	•	•	•	•	•	•
NEBRASKA	•	•	•	•	•	•	•	•	•	•	•	•
NEVADA		•	•		•	•	•					
NEW HAMPSHIRE	•	•	•	•	•	•	•	•	•		•	•
NEW JERSEY	•	•	•	•	•	•	•	•		•	•	•
NEW MEXICO											•	
NEW YORK			•		•			•				
NORTH CAROLINA												
NORTH DAKOTA	•	•	•	•	•	•	•			•		
OHIO		•	•	•	•	•	•					
OKLAHOMA		•	•		•							
OREGON	•	•		•	•	•	•	•	•	•	•	
PENNSYLVANIA						•			•			
RHODE ISLAND		•	•	•	•	•		•		•	•	•
SOUTH CAROLINA												
SOUTH DAKOTA		•	•	•	•	•						
TENNESSEE												
TEXAS		•	•	•	•	•						
UTAH	•	•	•	•	•	•	•	•	•	•	•	•
VERMONT	•						•					
VIRGINIA												
WASHINGTON		•	•	•	•	•	•	•	•	•		
WEST VIRGINIA			•									
WISCONSIN		•	•	•		•	•	•	•	•	•	
WYOMING												
41 States	13	28	32	23	27	30	25	17	12	15	17	10
D.C.		•	•	•		•	•		•			

Fire Prevention Laws are not included.

*Local Authorizing Statute

2021554400

Source: https://www.industrydocuments.ucsf.edu/docs/qnhm0000